

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 214

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO PUTATIVE FATHERS; AMENDING SECTION 7-1107, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO REVISE PROVISIONS RELATING TO A PROCEEDING TO ESTABLISH PATERNITY OF A CHILD; AMENDING CHAPTER 11, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1126, IDAHO CODE, TO PROVIDE THAT A COURT SHALL NOT CONSIDER WHETHER A PARENT CONSENTED TO ADOPTION IN DETERMINING BEST INTEREST OF THE CHILD; AMENDING SECTION 16-1501, IDAHO CODE, TO PROVIDE THAT NOTHING IN THIS CHAPTER SHALL MODIFY THE REQUIREMENTS OF THE INDIAN CHILD WELFARE ACT; AMENDING SECTION 16-1504, IDAHO CODE, TO REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO THE RIGHTS OF PUTATIVE FATHERS WHOSE CHILDREN HAVE BEEN PLACED WITH ADOPTIVE PARENTS, TO REVISE PROVISIONS RELATING TO PUTATIVE FATHERS WHO DO NOT COMPLY WITH THE PROCEDURES FOR ESTABLISHING PARENTAL RIGHTS, TO PROVIDE THAT AN UNMARRIED BIOLOGICAL FATHER MUST FILE A PROCEEDING TO ESTABLISH PATERNITY PRIOR TO THE DATE OF FILING OF A PROCEEDING TO TERMINATE RIGHTS OF THE BIRTH MOTHER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-1513, IDAHO CODE, TO PROVIDE THAT REGISTRATION OF NOTICE OF FILING OF PROCEEDINGS COMMENCES ESTABLISHMENT OF PATERNITY, TO PROVIDE CODE REFERENCES, TO PROVIDE THAT NOTICE TO A PUTATIVE FATHER OF PROCEEDINGS FOR ADOPTION CONSTITUTES IMPLIED CONSENT, TO PROVIDE FOR REVOCATION OF NOTICE OF INTENT TO CLAIM PATERNITY, TO PROVIDE FOR FEES TO COVER COSTS, TO REVISE TERMINOLOGY, TO PROVIDE FOR PAMPHLETS AND PUBLIC NOTICE REGARDING THE PUTATIVE FATHER REGISTRY, TO PROVIDE A PENALTY FOR FALSELY REGISTERING AS A PUTATIVE FATHER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 16-2007, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO PROVIDE FOR FATHERS WHO HAVE FAILED TO TIMELY FILE NOTICE OF FILING OF PROCEEDINGS; AND AMENDING SECTION 16-2008, IDAHO CODE, TO PROVIDE A CODE REFERENCE, TO PROVIDE FOR FATHERS WHO HAVE FAILED TO TIMELY FILE NOTICE OF FILING OF PROCEEDINGS AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 7-1107, Idaho Code, be, and the same is hereby amended to read as follows:

7-1107. LIMITATION OF ACTION. (1) Except as provided in section 16-1504(9), Idaho Code, a ~~p~~Proceedings to establish paternity of the child under the provisions of this chapter may be instituted ~~only~~ either before or after the birth of the child ~~and~~ but must be instituted before the child reaches the age of majority as defined in section 32-101, Idaho Code.

(2) This section shall apply retroactively, and is for the benefit of any dependent child, whether born before or after the effective date of this act, and regardless of the past or current marital status of the parents.

1 SECTION 2. That Chapter 11, Title 7, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 7-1126, Idaho Code, and to read as follows:

4 7-1126. CUSTODY OF CHILDREN -- BEST INTEREST. In any proceeding to de-
5 termine custody under the provisions of this chapter, the court shall apply
6 sections 32-717 through 32-717E, Idaho Code. However, the court shall not
7 consider whether or not the mother or father did or did not voluntarily con-
8 sent to the adoption of the child or to the relinquishment of parental rights
9 in determining best interest of the child.

10 SECTION 3. That Section 16-1501, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 16-1501. MINORS AND ADULTS MAY BE ADOPTED. Any minor child may be
13 adopted by any adult person residing in and having residence in Idaho, in the
14 cases and subject to the rules prescribed in this chapter.

15 (1) Persons not minors may be adopted by a resident adult in cases where
16 the person adopting has sustained the relation of parent to such adopted per-
17 son:

18 (a) For a period in excess of one (1) year while the person was a minor;
19 or

20 (b) For such period of time or in such manner that the court after inves-
21 tigation finds a substantial family relationship has been created.

22 (2) Adoptions shall not be denied solely on the basis of the disability
23 of a prospective adoptive parent.

24 (a) "Adaptive equipment," for purposes of this chapter, means any piece
25 of equipment or any item that is used to increase, maintain, or improve
26 the parenting capabilities of a parent with a disability.

27 (b) "Disability," for purposes of this chapter, means, with respect to
28 an individual, any mental or physical impairment which substantially
29 limits one (1) or more major life activities of the individual includ-
30 ing, but not limited to, self-care, manual tasks, walking, seeing,
31 hearing, speaking, learning, or working, or a record of such an im-
32 pairment, or being regarded as having such an impairment. Disability
33 shall not include transvestism, transsexualism, pedophilia, exhibi-
34 tionism, voyeurism, other sexual behavior disorders, or substance use
35 disorders, compulsive gambling, kleptomania, or pyromania. Sexual
36 preference or orientation is not considered an impairment or disabili-
37 ty. Whether an impairment substantially limits a major life activity
38 shall be determined without consideration of the effect of corrective
39 or mitigating measures used to reduce the effects of the impairment.

40 (c) "Supportive services," as used in this chapter, means services
41 which assist a parent with a disability to compensate for those aspects
42 of their disability which affect their ability to care for their child
43 and which will enable them to discharge their parental responsibili-
44 ties. The term includes specialized or adapted training, evaluations,
45 or assistance with effective use of adaptive equipment, and accommo-
46 dations which allow a parent with a disability to benefit from other
47 services, such as Braille texts or sign language interpreters.

1 (3) If applicable, nothing in this chapter shall modify the require-
 2 ments of the Indian child welfare act of 1978, 25 U.S.C. section 1902, et seq.

3 SECTION 4. That Section 16-1504, Idaho Code, be, and the same is hereby
 4 amended to read as follows:

5 16-1504. NECESSARY CONSENT TO ADOPTION. (1) Consent to adoption is re-
 6 quired from:

7 (a) The adoptee, if he is more than twelve (12) years of age, unless he
 8 does not have the mental capacity to consent;

9 (b) Both parents or the surviving parent of an adoptee who was conceived
 10 or born within a marriage, unless the adoptee is eighteen (18) years of
 11 age or older;

12 (c) The mother of an adoptee born outside of marriage;

13 (d) Any biological parent who has been adjudicated to be the child's
 14 biological father by a court of competent jurisdiction prior to the
 15 mother's execution of consent;

16 (e) An unmarried biological father of an adoptee only if the require-
 17 ments and conditions of subsection (2) (a) or (b) of this section have
 18 been proven;

19 (f) Any legally appointed custodian or guardian of the adoptee;

20 (g) The guardian or conservator of an incapacitated adult, if one has
 21 been appointed;

22 (h) The adoptee's spouse, if any; and

23 (i) An unmarried biological father who has filed a voluntary acknowl-
 24 edgment of paternity with the vital statistics unit of the department of
 25 health and welfare pursuant to section 7-1106, Idaho Code; and

26 (j) The father of an illegitimate child who has adopted the child by ac-
 27 knowledgegment.

28 (2) In accordance with subsection (1) of this section, the consent of
 29 an unmarried biological father is necessary only if the father has strictly
 30 complied with ~~the~~ all requirements of this section.

31 (a) (i) With regard to a child who is placed with adoptive parents more
 32 than six (6) months after birth, an unmarried biological father
 33 shall have developed a substantial relationship with the child,
 34 taken some measure of responsibility for the child and the child's
 35 future, and demonstrated a full commitment to the responsibili-
 36 ties of parenthood by financial support of the child, of a fair and
 37 reasonable sum and in accordance with the father's ability, when
 38 not prevented from doing so by the person or authorized agency hav-
 39 ing lawful custody of the child, and either:

40 1. Visiting the child at least monthly when physically and
 41 financially able to do so, and when not prevented from doing
 42 so by the person or authorized agency having lawful custody
 43 of the child; or

44 2. Have regular communication with the child or with the
 45 person or agency having the care or custody of the child,
 46 when physically and financially unable to visit the child,
 47 and when not prevented from doing so by the person or autho-
 48 rized agency having lawful custody of the child.

(ii) The subjective intent of an unmarried biological father, whether expressed or otherwise, unsupported by evidence of acts specified in this subsection shall not preclude a determination that the father failed to meet any one (1) or more of the requirements of this subsection.

(iii) An unmarried biological father who openly lived with the child for a period of six (6) months within the one (1) year period after the birth of the child and immediately preceding placement of the child with adoptive parents, and who openly held himself out to be the father of the child during that period, shall be deemed to have developed a substantial relationship with the child and to have otherwise met all of the requirements of this subsection.

(b) With regard to a child who is under six (6) months of age at the time he is placed with adoptive parents, an unmarried biological father shall have manifested a full commitment to his parental responsibilities by performing all of the acts described in this subsection ~~prior to the placement for adoption of the child in the home of prospective parents or~~ and prior to the date of commencement the filing of any proceeding to terminate the parental rights of the birth mother, whichever event occurs first. The father shall have strictly complied with all of the requirements of this subsection by:

(i) ~~Commence Filing~~ File Filing proceedings to establish paternity under section 7-1111, Idaho Code, and ~~file filing~~ with that court a sworn affidavit stating that he is fully able and willing to have full custody of the child, setting forth his plans for the care of the child, and agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;

(ii) ~~File Filing~~ a notice of ~~his commencement of the~~ proceedings to establish his paternity of the child with the vital statistics unit of the department of health and welfare pursuant to section 16-1513, Idaho Code; and

(iii) If he had actual knowledge of the pregnancy, paying a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his means, and when not prevented from doing so by the person or authorized agency having lawful custody of the child.

(3) An unmarried biological father whose consent is required under subsection (1) or (2) of this section may nevertheless lose his right to consent if the court determines, in accordance with the requirements and procedures of the termination of parent and child relationship act, sections 16-2001 through 16-2015, Idaho Code, that his rights should be terminated, based on the petition of any party as set forth in section 16-2004, Idaho Code.

(4) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that an unmarried biological father has consented to or waived his rights regarding a proposed adoption, the petitioner shall file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of notices from putative fathers, of a child born out of wedlock, and that the pu-

1 tative father involved has not filed notice of ~~his commencement of the pro-~~
 2 ceedings to establish his paternity, or if a filing is found, stating the
 3 name of the putative father and the time and date of filing. That certifi-
 4 cate shall be filed with the court prior to the entrance of the final decree
 5 of adoption.

6 (5) An unmarried biological father who does not fully and strictly com-
 7 ply with each of the conditions provided in this section, ~~is deemed to have~~
 8 waived and surrendered any right in relation to the child, including the
 9 right to notice of any judicial proceeding in connection with the adoption of
 10 the child, or for termination of parental rights and his consent to the adop-
 11 tion of the child is not required unless he proves, by clear and convincing
 12 evidence, all of the following:

13 (a) It was not possible for him, prior to the filing of a proceeding to
 14 terminate parental rights of the birth mother to:

15 (i) Commence proceedings to establish paternity of his child in
 16 accordance with section 7-1111, Idaho Code; and

17 (ii) File notice of the filing of proceedings to establish his
 18 paternity of the child with the vital statistics unit of the de-
 19 partment of health and welfare in accordance with section 16-1513,
 20 Idaho Code;

21 (b) His failure to timely file notice of the filing of proceedings to
 22 establish his paternity of the child with the vital statistics unit
 23 of the department of health and welfare in accordance with section
 24 16-1513, Idaho Code, and his failure to commence timely proceedings to
 25 establish paternity of his child in accordance with section 7-1111,
 26 Idaho Code, was through no fault of his own; and

27 (c) He filed notice of the filing of proceedings to establish pater-
 28 nity of his child in accordance with section 7-1111, Idaho Code, with
 29 the vital statistics unit of the department of health and welfare in ac-
 30 cordance with section 16-1513, Idaho Code, and filed proceedings to es-
 31 tablish his paternity of the child within ten (10) days after the birth
 32 of the child. Lack of knowledge of the pregnancy is not an acceptable
 33 reason for his failure to timely file notice of the commencement of pro-
 34 ceedings or for his failure to commence timely proceedings.

35 (6) A minor parent has the power to consent to the adoption of his or her
 36 child. That consent is valid and has the same force and effect as a consent
 37 executed by an adult parent. A minor parent, having executed a consent, can-
 38 not revoke that consent upon reaching the age of majority or otherwise becom-
 39 ing emancipated.

40 (7) No consent shall be required of, nor notice given to, any person
 41 whose parental relationship to such child shall have been terminated in
 42 accordance with the provisions of either chapter 16 or 20, title 16, Idaho
 43 Code, or by a court of competent jurisdiction of a sister state under like
 44 proceedings; or in any other manner authorized by the laws of a sister state.
 45 Where a voluntary child placement agency licensed by the state in which it
 46 does business is authorized to place a child for adoption and to consent
 47 to such child's adoption under the laws of such state, the consent of such
 48 agency to the adoption of such child in a proceeding within the state of Idaho
 49 shall be valid and no further consents or notices shall be required.

(8) The legislature finds that an unmarried biological father who resides in another state may not, in every circumstance, be reasonably presumed to know of, and strictly comply with, the requirements of this chapter. Therefore, when all of the following requirements have been met, that unmarried biological father may contest an adoption, prior to finalization of the decree of adoption, and assert his interest in the child:

(a) The unmarried biological father resides and has resided in another state where the unmarried mother was also located or resided;

(b) The mother left that state without notifying or informing the unmarried biological father that she could be located in the state of Idaho;

(c) The unmarried biological father has, through every reasonable means, attempted to locate the mother but does not know or have reason to know that the mother is residing in the state of Idaho; and

(d) The unmarried biological father has complied with the most stringent and complete requirements of the state where the mother previously resided or was located, in order to protect and preserve his parental interest and rights in the child in cases of adoption.

(9) ~~Notwithstanding~~ An unmarried biological father may, under the provisions of section 7-1107, Idaho Code, file a proceeding to establish his paternity filed pursuant to this section may be filed prior to the birth of the child; however, such paternity proceeding must be filed prior to the date of the filing of any proceeding to terminate parental rights of the birth mother.

SECTION 5. That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

16-1513. REGISTRATION OF NOTICE OF ~~COMMENCEMENT~~ AND FILING OF PATERNITY PROCEEDINGS. (1) A person who is the father or claims to be the father of a child born out of wedlock may claim rights pertaining to his paternity of the child by commencing proceedings to establish paternity under section 7-1111, Idaho Code, and by filing with the vital statistics unit of the department of health and welfare notice of his ~~commencement~~ filing of proceedings to establish his paternity of the child born out of wedlock. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of filing the notice of ~~commencement~~ filing of paternity proceedings, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. The forms shall include a written notification that filing pursuant to this section shall not satisfy the requirements of chapter 82, title 39, Idaho Code, and the notification shall also include the following statements:

(a) A parent may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, as provided by section 39-8206, Idaho Code, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare on a form as prescribed and provided by the vital statistics unit of the department of health and welfare;

(b) The vital statistics unit of the department of health and welfare shall maintain a separate registry for claims to abandoned children,

1 abandoned pursuant to the provisions of chapter 82, title 39, Idaho
2 Code;

3 (c) The department shall provide forms for the purpose of filing a claim
4 of parental rights of an abandoned child, abandoned pursuant to the pro-
5 visions of chapter 82, title 39, Idaho Code, and the forms shall be made
6 available through the vital statistics unit of the Idaho department of
7 health and welfare and in the office of the county clerk in every county
8 of this state;

9 (d) To be valid, a claim of parental rights of an abandoned child, aban-
10 doned pursuant to the provisions of chapter 82, title 39, Idaho Code,
11 must be filed before an order terminating parental rights is entered by
12 the court. A parent that fails to file a claim of parental rights prior
13 to entry of an order terminating their parental rights is deemed to have
14 abandoned the child and waived and surrendered any right in relation to
15 the child, including the right to notice of any judicial proceeding in
16 connection with the termination of parental rights or adoption of the
17 child;

18 (e) Registration of notice of ~~commencement~~ filing of paternity pro-
19 ceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy
20 the requirements of chapter 82, title 39, Idaho Code. To register a
21 parental claim to an abandoned child, abandoned pursuant to the provi-
22 sions of chapter 82, title 39, Idaho Code, an individual must file an
23 abandoned child registry claim with the vital statistics unit of the
24 department of health and welfare and comply with all other provisions of
25 chapter 82, title 39, Idaho Code, in the time and manner prescribed, in
26 order to preserve parental rights to the child.

27 When filing a notice of the ~~commencement~~ filing of paternity proceed-
28 ings, a person who claims to be the father of a child born out of wedlock,
29 shall file with the vital statistics unit of the department of health and
30 welfare, the completed form prescribed by the vital statistics unit of the
31 department of health and welfare. Said form will be filled out completely,
32 signed by the person claiming paternity, and witnessed before a notary pub-
33 lic.

34 (2) The notice of the ~~commencement~~ filing of paternity proceedings may
35 be filed prior to the birth of the child, but must be filed ~~prior to the place-~~
36 ~~ment for adoption of the child in the home of prospective parents or~~ prior
37 to the date of ~~commencement~~ the filing of any proceeding to terminate the
38 parental rights of the birth mother, ~~whichever event occurs first~~. The no-
39 tice of the ~~commencement~~ filing of paternity proceedings shall be signed by
40 the person filing the notice and shall include his name and address, the name
41 and last address of the mother, and either the birth date of the child or the
42 probable month and year of the expected birth of the child. The vital sta-
43 tistics unit of the department of health and welfare shall maintain a central
44 registry for this purpose ~~which that~~ shall be subject to disclosure accord-
45 ing to chapter 3, title 9, Idaho Code. The department shall record the date
46 and time the notice of the ~~commencement~~ filing of proceedings is filed with
47 the department. The notice shall be deemed to be duly filed with the depart-
48 ment as of the date and time recorded on the notice by the department.

1 (3) If the unmarried biological father does not know the county in which
 2 the birth mother resides, he may initiate his action in any county, subject
 3 to a change in venue.

4 (4) Except as provided in section 16-1504(5), Idaho Code, ~~a~~Any father
 5 of a child born out of wedlock who fails to file and register his notice of the
 6 commencement of paternity proceedings ~~prior to the placement for adoption of~~
 7 ~~the child in the home of prospective parents or pursuant to section 7-1111,~~
 8 Idaho Code, prior to the date of commencement the filing of any proceeding
 9 to terminate the parental rights of the birth mother, whichever event occurs
 10 first, is deemed to have waived and surrendered any right in relation to the
 11 child and of any notice to proceedings for adoption of the child or for termi-
 12 nation of parental rights of the birth mother. His consent to the adoption of
 13 the child shall not be required and he shall be barred from thereafter bring-
 14 ing or maintaining any action to establish his paternity of the child. Fail-
 15 ure of such filing or registration shall constitute an abandonment of said
 16 child and shall constitute an irrevocable implied consent in any adoption or
 17 termination proceeding.

18 (5) The filing and registration of an unrevoked notice of the commence-
 19 ment of paternity proceedings by a putative father shall constitute prima
 20 facie evidence of the fact of his paternity in any contested proceeding under
 21 chapter 11, title 7, Idaho Code. The filing of a notice of the commencement
 22 of paternity proceedings shall not be a bar to an action for termination of
 23 his parental rights under chapter 20, title 16, Idaho Code.

24 (6) An unmarried biological father of a child born out of wedlock who
 25 has filed and registered a notice of the filing of paternity proceedings may
 26 at any time revoke notice of intent to claim paternity previously filed.
 27 Upon receipt of written revocation, the effect shall be as if no notice of the
 28 filing of paternity proceedings had been filed or registered.

29 (57) In any adoption proceeding pertaining to a child born out of wed-
 30 lock, if there is no showing that the putative father has consented to the
 31 adoption, a certificate shall be obtained from the vital statistics unit of
 32 the department of health and welfare, signed by the state registrar of vital
 33 statistics, which certificate shall state that a diligent search has been
 34 made of the registry of notices from putative fathers, and that no filing has
 35 been found pertaining to the father of the child in question, or if a fil-
 36 ing is found, stating the name of the putative father and the time and date
 37 of filing. That certificate shall be filed with the court prior to entry of a
 38 final decree of adoption.

39 (68) Identities of putative fathers can only be released pursuant to
 40 procedures contained in chapter 3, title 9, Idaho Code.

41 (79) To cover the cost of implementing and maintaining said central
 42 registry, the vital statistics unit of the department of health and welfare
 43 shall charge a filing fee of ten dollars (\$10.00) at the time the putative
 44 father files his notice of his commencement of proceedings. The department
 45 shall also charge a reasonable fee to cover all costs incurred in a search
 46 of the Idaho putative father registry and for furnishing a certificate in
 47 accordance with the provisions of this section and section 16-1504, Idaho
 48 Code. It is the intent of the legislature that the fee shall cover all direct
 49 and indirect costs incurred pursuant to this section and section 16-1504,
 50 Idaho Code. The board of health and welfare department shall annually review

1 the fees and expenses incurred pursuant to administering the provisions of
2 this section and section 16-1504, Idaho Code.

3 (810) Consistent with its authority denoted in the vital statistics
4 act, section 39-242(c), Idaho Code, the board of health and welfare shall
5 adopt, amend and repeal rules for the purpose of carrying out the provisions
6 of this section.

7 (11) The department shall produce and distribute, within the limits
8 of continuing annual appropriations duly made available to the department
9 by the legislature for such purposes, a pamphlet or publication informing
10 the public about the Idaho putative father registry, printed in English and
11 Spanish. The pamphlet shall indicate the procedures to be followed in order
12 to receive notice of any proceeding for adoption of a child an unmarried
13 biological father claims to have fathered and of any proceeding for termi-
14 nation of his parental rights, voluntary acknowledgment of paternity, the
15 consequences of acknowledgment of paternity, the consequences of failure to
16 acknowledge paternity and the address of the Idaho putative father registry.
17 Within the limits of continuing annual appropriations duly made available
18 to the department by the legislature for such purposes, such pamphlets or
19 publications shall be made available for distribution to the public at all
20 offices of the department of health and welfare. Upon request the department
21 shall also provide such pamphlets or publications to hospitals, libraries,
22 medical clinics, schools, colleges, universities, providers of child-re-
23 lated services and children's agencies licensed in the state of Idaho or
24 advertising services in the state of Idaho.

25 (12) Within the limits of continuing annual appropriations duly made
26 available to the department by the legislature for such purposes, each
27 county clerk, branch office of the department of motor vehicles, all of-
28 fices of the department of health and welfare, hospitals and local health
29 districts shall post in a conspicuous place a notice that informs the public
30 about the purpose and operation of the Idaho putative father registry. The
31 notice must include information regarding the following:

32 (a) Where to obtain a registration form;

33 (b) Where to register;

34 (c) The procedures to follow in order to file proceedings to establish
35 paternity of a child born out of wedlock;

36 (d) The consequences of a voluntary acknowledgment of paternity; and

37 (e) The consequences of failure to acknowledge paternity.

38 (13) The department shall host on the department's web page a public
39 service announcement (PSA) informing the public about the Idaho putative
40 father registry, printed in English and Spanish. The PSA shall indicate the
41 procedures to be followed in order to receive notice of any proceeding for
42 adoption of a child an unmarried biological father claims to have fathered
43 and of any proceeding for termination of his parental rights, voluntary ac-
44 knowledgment of paternity, the consequences of acknowledgment of paternity,
45 the consequences of failure to acknowledge paternity and the address of the
46 Idaho putative father registry.

47 (14) Failure to post a proper notice under the provisions of this sec-
48 tion does not relieve a putative father of the obligation to file notice
49 of the filing of proceedings to establish his paternity pursuant to this
50 section or to commence proceedings to establish paternity pursuant to sec-

tion 7-1111, Idaho Code, prior to the filing of any proceeding to terminate parental rights of the birth mother.

(15) A person who knowingly or intentionally falsely files or registers as a putative father is guilty of a misdemeanor.

SECTION 6. That Section 16-2007, Idaho Code, be, and the same is hereby amended to read as follows:

16-2007. NOTICE -- WAIVER -- GUARDIAN AD LITEM. (1) After a petition has been filed, the court shall set the time and place for hearing. The petitioner shall give notice to any person entitled to notice under section 16-1505, Idaho Code, the authorized agency having legal custody of the child and the guardian ad litem of the child and of a parent. The petitioner shall give notice to the Idaho department of health and welfare if the petition for termination was not filed in conjunction with a petition for adoption or by an adoption agency licensed by the state of Idaho.

(2) Notice shall be given by personal service on the parents or guardian. Where reasonable efforts to effect personal service have been unsuccessful or are impossible because the whereabouts of parties entitled to notice are not known or reasonably ascertainable, the court shall order service by registered or certified mail to the last known address of the person to be notified and by publication once a week for three (3) successive weeks in a newspaper or newspapers to be designated by the court as most likely to give notice to the person to be served. The hearing shall take place no sooner than ten (10) days after service of notice, or where service is by registered or certified mail and publication, the hearing shall take place no sooner than ten (10) days after the date of last publication.

(3) Notice and appearance may be waived by a parent in writing and witnessed by a district judge or magistrate of a district court, or equivalent judicial officer of the state, where a person waiving notice and appearance resides or is present, whether within or without the county, and shall be substantially in the following form:

IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF

In the Matter of the termination)
of the parental rights to)
.....)
.....)
(a) minor child(ren)

I (we), the undersigned, being the of, do hereby waive my (our) right to notice and my (our) right to appear in any action seeking termination of my (our) parental rights. I (we) understand that by waiving notice and appearance my (our) parental right(s), to the said, who was born,, unto, may be completely and forever terminated, including all legal rights, privileges, duties and obligations, including all rights of inheritance to and from the said, and I (we) do hereby expressly waive my (our) right(s) to notice of or appearance in any such action.

DATED:, 20..
.....

1 STATE OF IDAHO)
 2) ss.
 3 COUNTY OF)

4 On this day of, 20.., before me, the undersigned,
 5 (Judge or Magistrate) of the District Court of the Judicial District of
 6 the state of Idaho, in and for the county of, personally appeared,
 7 known to me (or proved to me on the oath of) to be the person(s) whose
 8 name(s) is (are) subscribed to the within instrument, and acknowledged to me
 9 that he (she, they) executed the same.

10 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
 11 seal the day and year in this certificate first above written.

12
 13 (District Judge or Magistrate)

14 (4) The court shall accept a waiver of notice and appearance executed in
 15 another state if:

16 (a) It is witnessed by a magistrate or district judge of the state where
 17 signed; or

18 (b) The court receives an affidavit or a certificate from a court of
 19 comparable jurisdiction stating that the waiver of notice and appear-
 20 ance was executed in accordance with the laws of the state in which it
 21 was executed, or the court is satisfied by other showing that the waiver
 22 of notice and appearance was executed in accordance with the laws of the
 23 state in which it was executed.

24 (5) When the termination of the parent and child relationship is sought
 25 and the parent is determined to be incompetent to participate in the pro-
 26 ceeding, the court shall appoint a guardian ad litem for the alleged incom-
 27 petent parent. The court may in any other case appoint a guardian ad litem,
 28 as may be deemed necessary or desirable, for any party. Except as provided
 29 in section 16-1504(5), Idaho Code, where the a putative father has failed
 30 to timely commence proceedings to establish paternity under section 7-1111,
 31 Idaho Code, and by filing or has failed to timely file notice of his filing
 32 of proceedings to establish his paternity of his child born out of wedlock
 33 under section 16-1513, Idaho Code, with the vital statistics unit of the de-
 34 partment of health and welfare, notice of his commencement of proceedings to
 35 establish his paternity of the child born out of wedlock, notice under this
 36 section is not required unless such putative father is one of those persons
 37 specifically set forth in section 16-1505(1), Idaho Code.

38 (6) If a parent fails to file a claim of parental rights pursuant to
 39 the provisions of chapter 82, title 39, Idaho Code, for a child left with a
 40 safe haven pursuant thereto, prior to entry of an order terminating their
 41 parental rights, that parent is deemed to have abandoned the child and waived
 42 and surrendered any right in relation to the child, including the right to
 43 notice of any judicial proceeding in connection with the termination of
 44 parental rights.

45 SECTION 7. That Section 16-2008, Idaho Code, be, and the same is hereby
 46 amended to read as follows:

47 16-2008. INVESTIGATION PRIOR TO DISPOSITION. ~~a-~~(1) If a petition for
 48 adoption is not filed in conjunction with a petition for termination, or the
 49 petition for termination was not filed by a children's adoption agency li-

1 censed by the state of Idaho upon the filing of a petition for termination,
 2 the court shall direct the department of health and welfare, bureau of child
 3 support ~~enforcement~~ services to submit a written financial analysis report
 4 within thirty (30) days from date of notification, detailing the amount of
 5 any unreimbursed public assistance moneys paid by the state of Idaho on be-
 6 half of the child. The financial analysis shall include recommendations re-
 7 garding repayment of unreimbursed public assistance and provisions for fu-
 8 ture support for the child, and the reasons therefor.

9 ~~b.~~ (2) Upon the filing of a petition, the court may direct, in all cases
 10 where written consent to termination has not been given as provided in this
 11 ~~act~~ chapter, that an investigation be made by the department of health and
 12 welfare, division of family and children's community services, or a licensed
 13 children's adoption agency, and that a report in writing of such study be
 14 submitted to the court prior to the hearing, except that where the department
 15 of health and welfare or a licensed children's adoption agency is a peti-
 16 tioner, either in its own right or on behalf of a parent, a report in writing
 17 of the investigation made by such agency shall accompany the petition. The
 18 department of health and welfare or the licensed children's adoption agency
 19 shall have thirty (30) days from notification by the court during which it
 20 shall complete and submit its investigation unless an extension of time is
 21 granted by the court upon application by the agency. The court may order
 22 additional investigation as it deems necessary. The social study shall in-
 23 clude the circumstances of the petition, the investigation, the present con-
 24 dition of the child and parents, proposed plans for the child, and such other
 25 facts as may be pertinent to the parent and child relationship, and the re-
 26 port submitted shall include a recommendation and the reasons therefor as to
 27 whether or not the parent and child relationship should be terminated. If
 28 the parent has a disability as defined in this chapter, the parent shall have
 29 the right, as a part of the social study, to provide information regarding
 30 the manner in which the use of adaptive equipment or supportive services will
 31 enable the parent to carry out the responsibilities of parenting the child.
 32 The person performing the social investigation shall advise the parent of
 33 such right and shall consider all such information in any findings or recom-
 34 mendations. The social study shall be conducted by, or with the assistance
 35 of, an individual with expertise in the use of such equipment and services.
 36 Nothing in this section shall be construed to create any new or additional
 37 obligations on state or local governments to purchase or provide adaptive
 38 equipment or supportive services for parents with disabilities. Where the
 39 parent is a minor, if the report does not include a statement of contact with
 40 the parents of said minor, the reasons therefor shall be set forth. The pur-
 41 pose of the investigation is to aid the court in making disposition of the pe-
 42 tition and shall be considered by the court prior thereto.

43 ~~e.~~ (3) Except as provided in section 16-1504(5), Idaho Code, no social
 44 study or investigation as provided for in subsection ~~b.~~(2) of this section
 45 shall be directed by the court with respect to the putative father who has
 46 failed to timely commence proceedings to establish paternity under section
 47 7-1111, Idaho Code, and by filing or who has failed to timely file notice of
 48 his filing of proceedings to establish his paternity of his child born out of
 49 wedlock under section 16-1513, Idaho Code, with the vital statistics unit of
 50 the department of health and welfare, notice of his commencement of proceed-

1 ~~ings to establish his paternity of the child,~~ unless such putative father is
2 one (1) of those persons specifically set forth in section 16-1505(1), Idaho
3 Code.